

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

RAYMOND PEREZ,

Plaintiff,

Case No.:

- against -

NOTICE OF REMOVAL

UBER TECHNOLOGIES, INC., UBER USA, LLC and
RASIER-NY,LLC,

Defendants.

x

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and Local Rule of Civil Procedure 81.1, Defendants Uber Technologies Inc., Uber USA, LLC and Uber USA, LLC (i/s/h/a Rasier-NY, LLC) (collectively referred to as “Uber”) hereby give notice of the removal of this action, which is currently pending in the New York State Supreme Court, Queens County, captioned *Raymond Perez v. Uber Technologies, et al.*, Index No. 720052/2022, to the United States District Court for the Eastern District of New York. As grounds for removal, Uber states as follows:

1. Uber removes this case on the basis of diversity jurisdiction on the grounds that there is complete diversity of citizenship among the properly joined parties to this litigation and the amount in controversy exceeds \$75,000.00, exclusive of interests and costs. *See* 28 U.S.C. § 1332(a)(1) (“[t]he district courts have shall original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between citizens of different states.”)

BACKGROUND

2. On September 27, 2022, Plaintiff Raymond Perez (“Plaintiff”) filed a Complaint in the Supreme Court of New York, County of Queens, naming Uber as a Defendant. A copy of the Summons & Complaint is annexed hereto as Exhibit “A”.

3. Plaintiff alleges in the Complaint that he was injured in an automobile collision on November 13, 2019 and that he sustained “serious” injuries. (Exh. “A”, ¶¶77; 81).

TIMELINESS OF REMOVAL

4. This application is filed within thirty (30) days of service of Plaintiff’s Summons and Complaint on Uber. *See 28 U.S.C. § 1446 (b)*. As seen in the Affidavits of Service, annexed as Exhibit “B”, Uber was served by CT Corporation System on October 3, 2022.

DIVERSITY OF CITIZENSHIP

5. Complete diversity of citizenship exists in this matter because Defendants are citizens of a different state than Plaintiff. *See 28 U.S.C. § 1332(a)*.

6. Plaintiff alleges that Plaintiff is an individual residing in Queens County, New York. Plaintiff is therefore a citizen of New York for diversity purposes. (Exh. “A”, ¶1).

7. At the time of the filing of the Complaint: 1) Uber Technologies, Incwas, and still is currently, a corporation which was formed under the laws of the State of Delaware with its principal place of business located at 1515 3rd Street, San Francisco, CA 94158; 2) Uber USA, LLC was, and still is currently, a limited liability company which was formed under the laws of the State of Delaware with its principal place of business located at 1515 3rd Street, San Francisco, CA 94158; and 3) Rasier-NY, LLC was, and still is currently, a limited liability company which as formed under the laws of the State of Delaware with its principal place of business located at

1515 3rd Street, San Francisco, CA 94158. Therefore, none of the Defendants are citizens of New York for diversity purposes.

AMOUNT IN CONTROVERSY

8. Based on Plaintiff's allegations, the amount in controversy in this case exceeds the jurisdictional minimum of \$75,000 required for diversity jurisdiction. *See* 28 U.S.C. § 1332.

9. Where, as here, the amount in controversy is not apparent from the pleadings, the Defendant may attach documents outside of the pleadings, including "information relating to the amount in controversy in the record of the State proceeding, or in response to discovery" to their removal notice. 28 U.S.C. §1446(c)(3)(A).

10. Plaintiff's Bill of Particulars concerning the collision that is the subject of this lawsuit from a previous lawsuit plaintiff filed in New York State Supreme Court, Queens County against the driver of the vehicle in which he was a passenger and against the driver of the vehicle which came into contact with his vehicle, see *Raymond Perez v. Victor Malyshev, et al*, Index No. 712193/2020, Exh. "C", contains a description of Plaintiff's damages, including claims of permanent disability, injuries to his right shoulder requiring surgery, and permanent limitation or use of a body organ or member. *See* Exh. "C", Plaintiff's Verified Bill of Particulars, *Raymond Perez v. Victor Malyshev, et al*, Index No. 712193/2020.

11. Thus, it is apparent from Plaintiff's disclosure of a right shoulder surgery in addition to his disclosure of claims of other permanent injuries, that Plaintiff is alleging damages in excess of the \$75,000 amount necessary to establish diversity jurisdiction.

**ALL PROCEDURAL PREREQUISITES TO REMOVAL
HAVE BEEN MET**

12. Pursuant to 28 U.S.C. §§ 1441(a) and 1441(6), Uber is filing this Notice of Removal in the federal district court for the district within which the State Court where the Complaint was filed.

13. Pursuant to 28 U.S.C. § 1446(a), Uber attaches copies of all process, pleadings and orders that have been filed, served or received by Uber in the State Court Action to this Notice. To date, the only paper filed in the State Court Action is the Complaint, which was previously annexed as "Ex. A".

14. Since Uber is the only properly named and joined defendant in this action, it is not required to seek consent of any party prior to filing this removal. *See* 28 U.S.C. § 1446(b)(2)(A).

15. Pursuant to 28 U.S.C. § 1391, venue is proper in the United States District Court for the Eastern District of New York, as the Complaint in this action was filed in the Supreme Court of the State of New York, County of Queens.

16. Uber will give written notice of the filing of this Notice of Removal to all other parties and will file a copy of this Notice of Removal with the Clerk of the Supreme Court, County of Queens, as required by 28 U.S.C. § 1446(d).

21. In removing this action, Uber does not intend to waive any rights or defenses to which they are otherwise entitled to under the Federal Rules of Civil Procedure.

22. Based on the record submitted with this Notice, this Court has jurisdiction over Plaintiff's claims and the Complaint is properly removed to this Court.

WHEREFORE, Uber Technologies, Inc., Uber USA, LLC and Uber USA, LLC (i/s/h/a Raiser-NY, LLC) respectfully request that this action proceed in the United States District Court for the Eastern District of New York, as an action properly removed from state court.

Dated: October 21, 2022
New York, New York

Respectfully submitted,

WILSON, ELSEY, MOSKOWITZ, EDELMAN & DICKER LLP

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on October 21, 2022 the foregoing was filed electronically through ECF with the United States District Court for the Eastern District of New York and served by mail, postage prepaid, by all counsel of record:

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